

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.06.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.No.790 of 2016

G.Ramkumar

.. Petitioner/Petitioner

Vs.

State represented by the Inspector of Police
Central Crime Branch, Team-II,
Vepery, Chennai-07

.. Respondent/Respondent

Prayer :- Criminal Revision Petition filed under Section 397 r/w
401 of Cr.P.C. to set aside the order dated 18.04.2016 made in
Cr.MP.No.414 of 2016 on the file of the XI Metropolitan
Magistrate, Saidapet, Chennai -15.

For Petitioner : Mr.K.Suthan

For Respondent : Mr.V.Arul, GA (Crl.side)

ORDER

The criminal revision petition is directed against the order passed by the learned XI Metropolitan Magistrate, Saidapet, Chennai made in Cr.MP.No.414 of 2016 dated 18.04.2016, for dismissing the petition filed by the petitioner under Section 156(3) Cr.PC.

2.The learned counsel for the petitioner contended that the petitioner is the defacto complainant filed petition under Section 156(3) Cr.PC before the Magistrate to register the case against the accused. The learned Magistrate without considering the fact of the case erred in dismissing the application filed under Section 156(3) Cr.PC. The complaint presented before the Magistrate is an independent complaint, the Magistrate has powers to forward the complaint with direction to the police to register and investigate the case for the offences. But, in this case, the respondent police received the complaint in CSR.No.2402/CCB-V/2015 and not registered the complaint, the Magistrate has also dismissed the application which is liable to be set aside and prayed to allow the revision petition.

3.The learned Government Advocate (Crl.side) vehemently opposed the case stating that the petitioner preferred a complaint before the police and also filed petition under Section 156(3) Cr.PC. The police investigated the case and filed closure report, which is also duly communicated to the complainant, without disclosing the said fact, the complainant preferred Crl.OP.No.27159 of 2015 before this Court to direct the respondent police to register the complaint of the petitioner, the copy of the said order is enclosed in typed of papers filed by the petitioner. Once again the petitioner preferred petition before the Magistrate under Section 156(3) Cr.PC without disclosing the order made in Crl.OP.No.27159 of 2015 and the same was rightly dismissed by the Magistrate.

4.Heard the rival submissions made on both sides.

5.The petitioner filed complaint before the Commissioner of Police on 29.09.2015 and received CSR.No.2402/CCB-V/2015 and filed Crl.OP.No.27159 of 2015 before this Court, this Court by an order dated 04.11.2015 closed the petition filed by the petitioner, the order of this Court is extracted hereunder :-

"This criminal original petition is filed seeking a direction to the 2nd respondent to register the petitioner's complaint dated 29.09.2015 and investigate the same in accordance with law.

2.In the affidavit filed by the petitioner, it is stated that the producer of the film titled, "Eli", namely, Sathish Kumar received a sum of Rs.1.22crores from the petitioner who is running a Cinema Production Company under the name and style of "Ohoh Pictures" for selling the foreign rights of the film to the petitioner. But, the said Sathish Kumar sold the foreign rights of the film to a third party without any intimation to the petitioner. In this regard, the petitioner gave a detailed complaint to the respondent police on 29.09.2015. Since no case was registered on his complaint, the petitioner is before this Court with this petition seeking the above relief.

3.Heard both sides.

4.When the matter is taken up for hearing, learned Additional Public Prosecutor submitted that the petitioner's complaint dated 29.09.2015 as also the counter complaint were enquired by the respondent police and finally, both the complaints are closed. He also produced the Closure Report dated 31.10.2015.

5. In view of the above submissions and taking note of the fact that the complaint itself is closed, nothing further survives for consideration in this matter.

6. Recording the submissions of the learned Additional Public Prosecutor, this Criminal Original Petition is closed. Learned Additional Public Prosecutor is directed to serve a copy of the closure report to the petitioner."

6. The reading of the above said order reveals that the petitioner filed Crl.OP.No.27159 of 2015 seeking a direction to the second respondent therein to register the petitioner's complaint dated 29.09.2015 and this Court by an order dated 04.11.2015 observed that the complaint was investigated and closure report was filed and closed the criminal original petition.

7. The learned counsel for the petitioner in support of his contention cited the following judgments :-

1. (2008) 2 SCC 409 - Sakiri Vasu V. State of Uttar Pradesh and others
2. 2014 SCC online Mad 8474 - P.Sathish Kumar v. The State rep by Inspector of Police, Koradacherry Police station, Tiruvarur
3. This Court order dated 13.07.2015 in Crl.OP.No.2296 of 2015 - Mrs.S.Vijayalakshmi V. The State Rep by Superintendent of Police, Kancheepuram and another
4. This Court order dated 25.08.2015 in Crl.OP.No.21177 of 2015 - M.Rana Prathap V. The Commissioner of Police, Vepery, Chennai and others.

The above judgments cited on the side of the petitioner is not applicable to the facts of the present case.

8. The complaint given by the petitioner was enquired and closed by the respondent police. The complainant without disclosing the order passed in Crl.OP.No.27159 of 2015, filed petition under Section 156(3) Cr.PC to direct the respondent police to register the case, the learned XI Metropolitan Magistrate, Saidapet, Chennai rightly dismissed the petition filed by the petitioner. This Court finds there is no illegality or infirmity in the order of the trial Court and the same does not warrant any interference by this Court.

9.In the result, the criminal revision petition stands dismissed, with liberty to the petitioner to take appropriate action in the manner known to law.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

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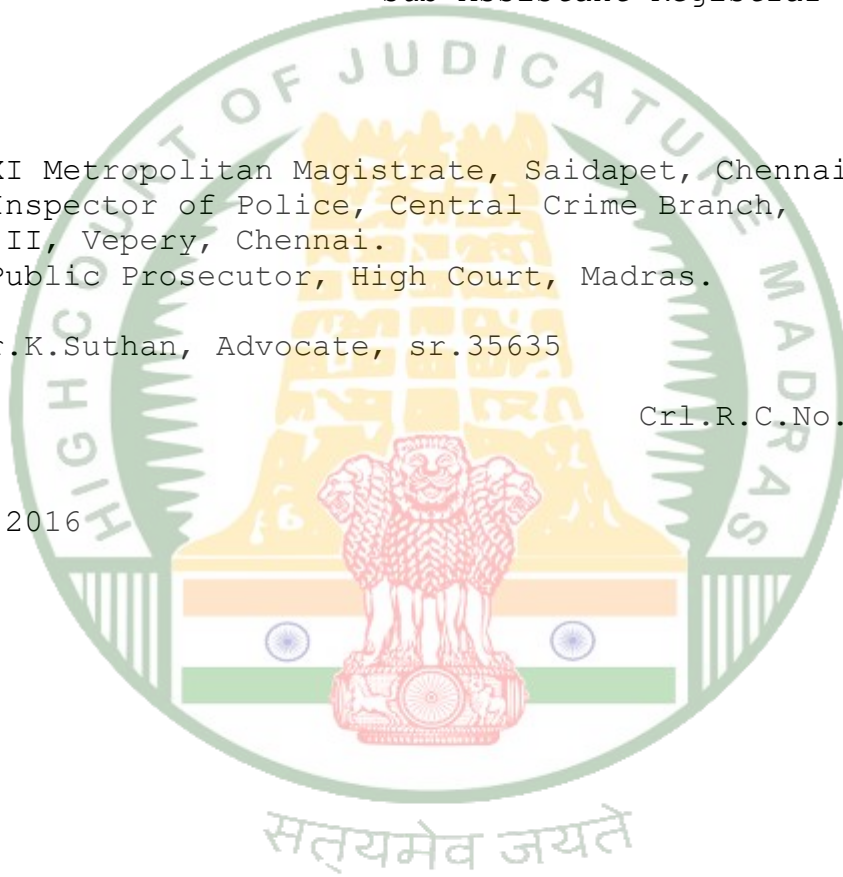
1. The XI Metropolitan Magistrate, Saidapet, Chennai.
2. The Inspector of Police, Central Crime Branch,
Team II, Vepery, Chennai.
3. The Public Prosecutor, High Court, Madras.

1 cc to Mr.K.Suthan, Advocate, sr.35635

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